

## Chapter 3

### Accountability and representation

3.1 As levy recipients and service providers, RDCs utilise industry levy funds to commission research on behalf of primary producers, processors and the Australian Government. They are dually accountable to both the industry that pays the levy and the Australian Government which provides matching R&D funds.<sup>1</sup> This accountability extends to levy payers through levy investment.<sup>2</sup>

3.2 This chapter details the roles of respective stakeholders in the levy system and considers the mechanisms in place to ensure the accountability of levy recipients to levy payers, the Australian Government and to tax payers.

#### Accountability to government and the tax payer

3.3 As recipients of the levy funds, RDCs are required to meet certain obligations under legislation and Statutory Funding Agreements (SFAs) with the Australian Government.<sup>3</sup> Both statutory and industry-owned RDCs are required to develop SFAs.<sup>4</sup>

3.4 Reporting is one of the key aspects of RDC accountability. RDCs are required to report agency documents to government including strategic plans, annual operating plans and annual reports.<sup>5</sup> AWI noted in this regard that while it was required to publish an annual report under corporations law, the SFA required RDCs to report the following information:

- all sources of income, separately identified;
- full costs of marketing and R&D programs;
- progress against plans;
- key outcomes delivered by marketing and R&D programs;
- progress in implementing the Rural Research and Development Policy Statement;
- collaboration with industry and other research providers;
- directions given by the minister;
- consultation with levy payers and key industry representative bodies;

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1 Department of Agriculture, *Submission 33*, p. 8.

2 Mr Tim Lester, Council of Rural Research and Development Corporations, *Committee Hansard*, 28 November 2014, p. 16.

3 Department of Agriculture, *Submission 33*, p. vi.

4 Recent amendment to the PIRD Act requires statutory RDCs to develop such funding agreements. SFA's are required to be agreed to by 30 June 2015.

5 Dairy Australia, *Submission 123*, p. 32.

- details of senior executive and board remuneration;
- the rationale for the portfolio balance; and
- 'other reasonable matters' notified by government.<sup>6</sup>

3.5 SFAs set out the expected content of the strategic plans, annual operating plans and annual reports. RDCs are required to consult with the department and industry in the preparation of their plans and also seek the department's approval for them.<sup>7</sup>

3.6 CRDC listed the following accountability and compliance requirements it is required to meet (for the Australian Government) under the SFA. RDCs must:

- establish accounting systems, processes and controls to adequately manage funds and contributions;
- meet at six-monthly intervals with the department;
- report annually on their compliance with the SFA;
- report to the department on matters that materially impact their ability to meet their objectives or comply with the SFA; and
- undertake periodic independent performance reviews.<sup>8</sup>

3.7 The primary vehicle for RDC accountability to government, therefore, is through SFAs.<sup>9</sup>

3.8 One of the key components of SFAs is a requirement upon RDCs to commission periodic independent reviews of their performance.<sup>10</sup> The review must take place prior to entering into negotiations for a new SFA between the RDC and department as the review's findings inform those negotiations.<sup>11</sup> In fact, the review provides an independent assessment of an RDC's performance against its strategic plan, annual operating plans and compliance with the SFA.<sup>12</sup>

3.9 As a case in point, under the 2014–2018 Deed of Agreement between HIAL and the Australian Government (represented by the department), HIAL is required to

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6 Australian Wool Innovation, *Submission 123*, p. 18.

7 Cotton Research and Development Corporation, Answer to questions on notice at 3 February 2015 hearing, received 20 February 2015.

8 Cotton Research and Development Corporation, Answer to questions on notice at 3 February 2015 hearing, received 20 February 2015.

9 Marsden Jacob Associates, *Grain Research and Development Corporation: Independent Strategic Governance Review: Final Report*, July 2014, p. 12.

10 Mr Aeger Kingma, Australian Pork Limited, *Committee Hansard*, 28 November 2014, p. 33; Australian Wool Innovation, *Submission 123*, p. 16; Deed of Agreement 2014–2018 between the Commonwealth of Australia and HIAL, p. 4.

11 Mr Matthew Koval, Department of Agriculture, *Committee Hansard*, 28 November 2014, p. 9; Forrest & Wood Products Australia, *Submission 83*, p. 3.

12 Australian Wool Innovation, *Submission 123*, p. 16.

engage an independent organisation to undertake a review of its performance six months prior to expiration of its four-year funding agreement. Under the terms of the deed, HIAL must publish the performance review report and its own response to the report's recommendations on its website.<sup>13</sup>

3.10 The requirement to conduct an independent performance review was recognised as an important accountability mechanism by submitters to the inquiry. Noting its support, NSW Farmers suggested that such reviews should be scheduled to ensure their completion prior to any re-approval of a levy by the relevant industry.<sup>14</sup> As noted in the previous chapter, this is already the process in relation to SRA, AWI and DA.

3.11 AWI noted that this requirement enables woolgrowers to respond directly to the review's findings by way of voting in the WoolPoll. Therefore, woolgrowers could potentially respond to a negative review of AWI's performance by voting in favour of a zero levy and thereby closing down the RDC.<sup>15</sup>

### ***Statutory RDC model***

3.12 The point was made to the committee that, of the fifteen original RDCs, most had moved away from the statutory model (whereby RDCs operate under statute as government agencies) to that of an industry-owned model.<sup>16</sup> Industry-owned RDC operations are governed by SFAs with government and also by its obligations under corporations law and other relevant legislation and regulations.<sup>17</sup> Most recently, the horticultural RDC became an industry-owned RDC. According to Mr John Lloyd, HIAL's CEO, under the statutory model, the RDC had 'no exposure to growers themselves'. All interaction was carried out through the peak bodies.<sup>18</sup>

3.13 One of the key differences in relation to the two models concerns the appointment of RDC boards. It was suggested that, as the minister appoints the board, the general governance of statutory RDCs requires that they are more accountable to the responsible minister than to levy-payer growers.<sup>19</sup> Mr John Harvey, CEO of GRDC, explained the statutory RDC board appointment process:

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13 Deed of Agreement 2014–2018 between the Commonwealth of Australia represented by the Department of Agriculture and Horticulture Innovation Australia Ltd, pp 39–40, <http://www.horticulture.com.au/wp-content/uploads/2014/10/2014-11-18-Contract-Deed-of-Agreement-2014-18.pdf> (accessed 38 April 2015).

14 NSW Farmers' Association, *Submission 140*, p. 15.

15 Australian Wool Innovation, *Submission 123*, p. 16.

16 Mr John Harvey, Grains Research and Development Corporation, *Committee Hansard*, 15 May 2015, p. 6.

17 Australian Wool Innovation, *Submission 123*, p. 4.

18 Mr John Lloyd, Horticulture Innovation Australia, *Committee Hansard*, 15 May 2015, p. 15.

19 Marsden Jacob Associates, *Grain Research and Development Corporation: Independent Strategic Governance Review: Final Report*, July 2014, p. 25.

Under the act, the minister appoints a presiding officer. The presiding officer forms a selection committee, which is a mixture of industry and skills. The selection committee then selects, following applications, directors and makes a recommendation back to the minister and the minister appoints the directors to the board.<sup>20</sup>

3.14 The involvement of industry in relation to this process is one of consultation as the representative organisation will often be consulted on the make-up of the selection committee.<sup>21</sup> This consultation process was outlined by CRDC:

The Minister for Agriculture in consultation with the industry representative organisation, Cotton Australia, appoints the Chairperson for CRDC. The Minister also appoints the Chairperson for the Selection Committee. The Selection Committee Chair in consultation with Cotton Australia recommends the members of the Selection Committee to the Minister for Agriculture. This committee interviews applicants and recommends to the Minister the board members for CRDC. The directors of CRDC are appointed for a period up to 3 years and may reapply for a second term. The Executive Director is appointed by the Board.<sup>22</sup>

3.15 In its review of GRDC, Marsden Jacobs Associates argued that changes to the PIRD Act and PGPA Act as well as the accountabilities prescribed under its industry-specific legislation increased GRDC's accountability to the Australian Government and reduced its accountability to levy paying growers.<sup>23</sup> In regard to GRDC, the report noted that:

The general governance of a statutory corporation requires that the organisation is ultimately more accountable to the responsible government Ministers than to growers, because the Board is appointed by the Minister for Agriculture. As a result, our consultation has confirmed that the organisation is generally seen as a governmental body. Furthermore, we understand that while levies may be tax deductible because they are collected by the Australian Government they are viewed as public monies rather than private contributions of growers to a grower grants body.<sup>24</sup>

3.16 Under the industry-owned model, levy payer members vote on the appointment of new RDC directors.<sup>25</sup> In the case of DA, the board selection

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20 Mr John Harvey, Grains Research and Development Corporation, *Committee Hansard*, 15 May 2015, p. 10.

21 Mr John Harvey, Grains Research and Development Corporation, *Committee Hansard*, 15 May 2015, p. 10.

22 Cotton Research and Development Corporation, Answer to questions on notice at 3 February 2014 hearing, received 20 February 2015.

23 Marsden Jacob Associates, *Grain Research and Development Corporation: Independent Strategic Governance Review: Final Report*, July 2014, p. 5.

24 Marsden Jacob Associates, *Grain Research and Development Corporation: Independent Strategic Governance Review: Final Report*, July 2014, p. 25.

25 Australian Wool Innovation, *Submission 123*, p. 24.

committee, which manages the board selection process, comprises industry representative bodies.<sup>26</sup>

3.17 In relation to industry-owned RDC board appointment process, AFI expressed the view that:

Government policy and good corporate governance provisions dictate that, generally, levy payers do not have the opportunity to directly elect persons to the Board of RDCs via a popular ballot, although levy payers do have the opportunity to endorse those nominated for Board positions via a selection committee process, or to elect directors from amongst those [nominating] for positions and who have met the requirements for that position. This may include having been endorsed to stand for election to a board position by a minimum number of levy payers.<sup>27</sup>

3.18 The government accountability requirements for statutory RDCs were strengthened under the 2013 legislation. CRRDC expressed the view that RDC accountability requirements were now heavily focused on the governance of funds.<sup>28</sup>

3.19 Evidence to the committee suggested that compliance and reporting against the SFA and other government requirements has placed a significant 'red tape' burden on statutory RDCs.<sup>29</sup> CRDC also highlighted the increasing costs associated with compliance. Over the past five years, its estimated costs (including the time required by its board and staff to address government compliance requirements) doubled to \$450,000 per annum. CRDC expressed the view that the compliance burden came at the 'expense of RD&E investment and independent governance arrangements'. Further, it argued that the recent introduction of additional compliance requirements, including obligations in relation to SFAs, were not commensurate with the level of risk appropriate to its operations.<sup>30</sup>

3.20 Marsden Jacob Associates also noted that the new PGPA Act had introduced a more 'government' like financial framework on statutory RDCs, with an increased set of duties, reporting requirements, rules and enhanced ministerial authority.<sup>31</sup>

#### *Financial reserves and extraordinary circumstances*

3.21 Evidence to the committee suggested the need for greater flexibility in relation to the utilisation of statutory RDC reserves, particularly during periods of crises, such as drought.

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26 Dairy Australia, *Submission 124*, p. 15.

27 Australian Farm Institute, *Submission 129*, p. 25.

28 Mr Tim Lester, Council of Rural Research and Development Corporations, *Committee Hansard*, 28 November 2014, p. 20.

29 Australian Livestock Exporters' Council, *Submission 74*, p. 7.

30 Cotton Research and Development Corporation, Answer to questions on notice at 3 February 2015 hearing, received 20 February 2015.

31 Marsden Jacob Associates, *Grain Research and Development Corporation: Independent Strategic Governance Review: Final Report*, July 2014, p. 28.

3.22 RDCs accumulate financial reserves to manage the risk of future volatility in levy revenue. Mr Stuart McCullough, CEO of AWI explained that AWI, (an industry-owned RDC) is currently drawing down on its reserves:

We went to the last WoolPoll and said we had excessive reserves and that we wanted to draw down on them, and we have put in a program. We tendered that at the time—a \$15 million draw-down followed by a \$12 million draw-down followed by a \$9 million draw-down. And we draw down those funds.<sup>32</sup>

3.23 Current financial arrangements stipulate that statutory RDCs seek government pre-approval to use their reserves and operate a deficit budget.<sup>33</sup> While RDC revenue is variable, RDCs are often required to undertake large RD&E investments. The point was made that flexibility is required to enable RDCs to draw on reserves, particularly during difficult periods to maintain their R&D agenda.<sup>34</sup> CRDC noted that:

[T]he current whole of government budgeting process is not conducive to approving use of reserves via loss applications for future years, adding additional administrative cost, creating uncertainty, and taking away the board's ability to govern – all at a time when resources are already stretched.<sup>35</sup>

3.24 NSW Farmers cited the Marsden Jacobs report which highlighted restrictions on alteration of proposed expenditures without approval and difficulties in running down equity reserves due to the impact on government budget surpluses (or deficits). NSW Farmers argued that these restrictions can impact on the capacity of statutory RDCs to use reserves to maintain research programs during years in which lower levy revenue is collected for reasons including lower levels of production or price; or alternatively to make strategic 'lumpy' investments, such as investment in capital required for specific research or extension activities.<sup>36</sup> Similarly, NFF argued that greater flexibility was required in order that reserves could be utilised to respond to and address specific challenges as they arose.<sup>37</sup> In this regard, the WA Grains Group argued the point that GRDC has amassed up to \$200 million in reserves while at the same time, growers had to borrow money to pay the levy.<sup>38</sup>

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32 Mr Stuart McCullough, Australian Wool Innovation, *Committee Hansard*, 5 February 2015, p. 22.

33 Mr Bruce Finney, Cotton Research and Development Corporation, *Committee Hansard*, 3 February 2015, p. 49 and Marsden Jacob Associates, *Grain Research and Development Corporation: Independent Strategic Governance Review: Final Report*, July 2014, p. 10.

34 Marsden Jacob Associates, *Grain Research and Development Corporation: Independent Strategic Governance Review: Final Report*, July 2014, p. 10.

35 Cotton Research and Development Corporation, *Submission 135*, p. 9.

36 NSW Farmers' Association, *Submission 140*, p. 9.

37 Mr Tony Mahar, National Farmers Federation, *Committee Hansard*, 5 February 2015, p. 3.

38 Mr Douglas Clarke, WA Grains Group, *Committee Hansard*, 20 February 2015, p. 1.

3.25 CRDC noted that, while it manages its reserves to ensure that the industry is able to sustain R&D during dry seasons, extreme circumstances such as prolonged periods of drought and floods have a serious impact on production and with it R&D. It argued that the RDC model does not provide an effective way of managing reduced RD&E funding during such periods.<sup>39</sup>

3.26 CRDC emphasised the need to consider effective ways of supporting RDCs to sustain their RD&E capacity during these extraordinary circumstances. It identified a number of options for consideration including increased government contributions during periods of drought-reduced levy income, which industry would repay in future non-drought, high-levy seasons. It also suggested that RDCs should be allowed to forward plan the use of existing reserves in periods of prolonged drought.<sup>40</sup>

3.27 ALPA argued in favour of an 'exceptional circumstance' criteria whereby levy payers who meet the criteria are excused from paying the levies whilst under hardship. It noted that such flexibility would provide cost relief to producers, such as those affected by drought or fire, and that such a system could operate as a 'claim back' scheme.<sup>41</sup>

3.28 ALFA highlighted the lack of flexibility in relation to the red meat sector's flat levy rate. It made the point that, producers are required to pay the flat rate regardless of the price they sell cattle for.<sup>42</sup> GrainGrowers Ltd supported an *ad valorem* levy rate for grain for this reason. It argued that the introduction of an *ad valorem* rate in place of the current fixed dollar per tonne rate for grain would enable automatic adjustment of the levy to prevailing market conditions and inflation. It suggested that providing such flexibility would also reduce the necessity to review the levy rate more often than at five year intervals.<sup>43</sup>

### **Accountability to industry and levy payers**

3.29 RDCs use a variety of methods to consult with industry representatives and, in some cases, directly with producers on RDC strategic plans, annual operating plans and R&D investment decisions. These mechanisms, which vary considerably, may include grower or producer groups such as member delegates and industry advisory committees, regional forums, field days, conferences, written submissions and surveys. In some instances, consultation processes, which include direct input from levy payers and industry representative bodies, focus on establishing priority areas for

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39 Cotton Research and Development Corporation, *Submission 135*, p. 9.

40 Cotton Australia, *Submission 131*, Attachment 1, pp 4–5.

41 Australian Livestock & Property Agents Association, *Submission 11*, p. 5.

42 Mr Douglas Gordon, Australian Lot Feeders' Association, *Committee Hansard*, 3 February 2015, p. 80.

43 GrainGrowers Ltd, *Submission 36*, p. 12.

R&D investment and strategic planning (SRA)<sup>44</sup> and culminate in annual planning and consultation cycles (AWI).<sup>45</sup>

3.30 RDCs utilise a range of media through which to engage, including newsletters and communicate as regularly as weekly through publications including R&D updates.<sup>46</sup>

3.31 The specifics of these arrangements vary by industry, depending on the particular characteristics of the industry and its RDC model.<sup>47</sup> While submitters argued that there was no single accountability framework that would be appropriate for all commodities, the levy principles and guidelines require that levy payers have adequate opportunities to engage with their specific sector.<sup>48</sup>

3.32 Nevertheless, the point was made that the extent to which RDCs have the scope to directly connect with producers is largely determined by their structure.

### ***Statutory RDCs***

3.33 A number of submitters raised concerns regarding the statutory RDC model and specifically the indirect relationship between statutory RDCs and levy payers.<sup>49</sup>

3.34 Under the PIRD Act, statutory RDCs are made accountable to levy payers through industry representative organisations or the Representative Organisation (RO). As a case in point, CRDC is accountable to the cotton industry through its RO, Cotton Australia.<sup>50</sup> Cotton Australia and its advisory panels (which include producer representatives across cotton growing regions and ginning organisations) advise on R&D priorities for the cotton industry and research project proposals.<sup>51</sup> It is voluntary for cotton growers to pay a levy of \$1.50 per bale to Cotton Australia (in addition to the compulsory cotton levy) to pursue the policy, stewardship and education aims of the industry. The Cotton Australia levy is also collected by the processors (cotton gins).<sup>52</sup>

3.35 The PIRD Act outlines a generic role for ROs and prescribes their relationship with RDCs.<sup>53</sup> ROs are the industry organisations to whom RDCs are accountable for performance. Under the PIRD Act, GRDC is made accountable to Australian grain

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44 Sugar Research Australia, *Submission 15*, p. 13.

45 Australian Wool Innovation, *Submission 123*, pp 24–25.

46 Ms Deb Kerr, Australian Pork Limited, *Committee Hansard*, 28 November 2014, p. 35.

47 Australian Farm Institute, *Submission 129*, Executive Summary.

48 Australian Farm Institute, *Submission 129*, Executive Summary.

49 Marsden Jacob Associates, *Grain Research and Development Corporation: Independent Strategic Governance Review: Final Report*, July 2014, pp 5, 7 & 25.

50 Cotton Research and Development Corporation, *Annual Report 2013–14*, p. 11.

51 Cotton Research and Development Corporation, *Submission 135*, p. 9.

52 Cotton Australia, *Submission 131*, pp 5–6.

53 National Farmers' Federation, *Submission 143*, p. 21.

growers through the industry's RO, Grain Producers Australia (GPA).<sup>54</sup> GRDC consults with GPA twice-yearly to consider forward planning and budget matters.<sup>55</sup> At such meetings, it also invites various state bodies and grower organisations such as NSW Farmers, AgForce, Victorian Farmers as well as geographically-focused groups such as the WA Farmers Federation and WA Grains Group.<sup>56</sup> Furthermore, every year, GPA will utilise GRDC's stakeholder report to assist it in formulating its advice to the minister on setting the R&D levy rate.<sup>57</sup>

3.36 The Marsden Jacob review of GRDC found that a statutory RDC was by definition, 'more at arm's length from growers than an OIC'. It suggested that GRDC needed a governance structure that would 'sharpen its connection to growers' and their needs.<sup>58</sup> The Marsden Jacob report concluded that these arrangements made it more challenging for GRDC to establish processes and methods to engage with growers and reflect their views appropriately in decision-making.<sup>59</sup> One of the primary mechanisms identified in the report to assist in addressing this challenge was that of a means to identify all levy payers.<sup>60</sup>

3.37 Grain Growers Ltd made the point that board representation is an effective way to offer growers influence over RDC outcomes, given the primary task of the board of a statutory corporation is setting priorities through strategic direction.<sup>61</sup>

3.38 Mr Jock Munro argued that GRDC has a top-down corporate structure with directors who do not have to place themselves before levy payers in an open process.<sup>62</sup> It was noted that greater board accountability to levy payers would improve R&D outcomes vis-à-vis improved alignment of grower and board vision and research

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54 Grains Research and Development Corporation, *Annual Report 2013–14*, p. 89 and Mr John Harvey, Grains Research and Development Corporation, *Committee Hansard*, 28 November 2014, p. 41.

55 Mr John Harvey, Grains Research and Development Corporation, *Committee Hansard*, 28 November 2014, p. 41.

56 Mr John Harvey, Grains Research and Development Corporation, *Committee Hansard*, 28 November 2014, p. 41.

57 Mr John Harvey, Grains Research and Development Corporation, *Committee Hansard*, 28 November 2014, p. 42 and Grains Research and Development Corporation, GRDC Stakeholder Report, <https://www.grdc.com.au/About-Us/Corporate-Governance/GRDC-Stakeholder-Report> (accessed 30 April 2015).

58 Marsden Jacob Associates, *Grain Research and Development Corporation: Independent Strategic Governance Review: Final Report*, July 2014, pp 5, 7 & 25.

59 Marsden Jacob Associates, *Grain Research and Development Corporation: Independent Strategic Governance Review: Final Report*, July 2014, p. 27.

60 Marsden Jacob Associates, *Grain Research and Development Corporation: Independent Strategic Governance Review: Final Report*, July 2014, p. 27.

61 Grain Growers Ltd, *Submission 36*, p. 12.

62 Mr Jock Munro, *Submission 125*.

imperatives.<sup>63</sup> As Mr Tony Gooch, Member of the WA Farmers Federation Wool Executive, noted, if mechanisms such as AGMs were in place, growers would be able to take their concerns directly to the board at an AGM.<sup>64</sup>

3.39 While GRDC utilises three regional panels to consult with growers, Marsden Jacob Associates suggested that GRDC hold regional annual general meetings, as provided for (but not mandatory) under the current legislation.<sup>65</sup> It suggested that such meetings would facilitate more personal engagement, and improve accountability (both of the board and levy paying growers) for decisions of the GRDC.<sup>66</sup>

### ***Industry-owned RDCs***

3.40 Industry-owned RDCs are directly accountable to their levy-paying members under corporations law principles.

3.41 The structure of industry-owned RDCs provide for membership arrangements whereby eligible levy payer members can vote at AGMs. Under the Corporations Act, directors must put the RDC's financial report, directors' report and auditor's report for the previous financial year before the AGM.<sup>67</sup> As a case in point, the AECL constitution stipulates that its members have a right to attend, speak and vote at the AECL AGM on any matter.<sup>68</sup>

3.42 As levy payers are entitled to membership, the industry-owned RDC structure provides greater scope for more direct levy payer engagement when compared to statutory RDCs. Whether this structure provides for enhanced levy payer accountability, however, remains a matter of debate.

3.43 One of the key issues in relation to RDC membership is that it is not automatically provided to eligible levy payers. As a case in point, under SRA's constitution, all sugarcane levy payers are entitled to membership of SRA but membership is not automatically assigned. SRA informed the committee that the Corporations Act requires that levy payers register to become SRA members.<sup>69</sup> Similarly, the Pastoralists and Graziers Association of Western Australia (PGAWA) noted the argument put forward by MLA that automatic membership implied the

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63 Marsden Jacob Associates, *Grain Research and Development Corporation: Independent Strategic Governance Review: Final Report*, July 2014, p. 9.

64 Mr Tony Gooch, Western Australian Farmers Federation, *Committee Hansard*, 20 February 2015, p. 53.

65 Mr John Harvey, Grains Research and Development Corporation, *Committee Hansard*, 28 November 2014, p. 41 and Marsden Jacob Associates, *Grain Research and Development Corporation: Independent Strategic Governance Review: Final Report*, July 2014, p. 10.

66 Marsden Jacob Associates, *Grain Research and Development Corporation: Independent Strategic Governance Review: Final Report*, July 2014, p. 10.

67 Sugar Research Australia, *Annual Report 2013–14*, p. 59.

68 Australian Egg Corporation Ltd, *Constitution*, 2007, p. 13.

69 Sugar Research Australia, *Submission 15*, p. 20.

imposition of membership obligations without consent upon producers, which is not permitted under the Corporations Act.<sup>70</sup>

### ***Voting entitlements***

3.44 In addition to applying for membership of industry-owned RDCs, levy payers must also apply for their voting entitlements. This requirement creates an additional hurdle for farmers who are already time poor. Farmer Power Australia put the view that:

The current situation of a Levy payer having to apply for their right to vote at general meetings is convoluted and if abolished, would generate a more connected and comprehensive decision making process.<sup>71</sup>

3.45 For a number of reasons, including the lack of automatic membership, not all levy payers are members of RDCs. In fact, industry-owned RDC members comprise a 'subset' of levy payers.<sup>72</sup> Therefore, not all levy payers are eligible to vote on levy-related matters.

3.46 As noted in the previous chapter, HIAL is currently in the process of developing a database of (levy payer) members. A database of horticulture levy payers is a separate task. In relation to the latter, HIAL is working with the department, GRDC and MLA to develop a more universal database of levy payers.<sup>73</sup>

3.47 AWI provided a summary of its voting arrangements and levy payer engagement in levy decisions:

We have 55,964 levy payers. Of those 55,964, we have 40,446 eligible levy payers. Those eligible levy payers are levy payers the [sic] pay \$100 in levies or more for three consecutive years. They become eligible levy payers. Those eligible levy payers are the people that get to vote at WoolPoll. Of those eligible levy payers, every year AWI writes to them and asks the ones who are not shareholders whether they want to be a shareholder. Of those 40,446, we have 26,596 shareholders of AWI. They are the people who get to vote at AGMs.<sup>74</sup>

3.48 Similarly, 62 per cent of dairy levy payers are members of DA and can therefore vote at AGMs on issues including appointment of the DA board.<sup>75</sup>

3.49 It was argued that to be equitable, levy payers must be eligible to vote on levy arrangements by virtue of levies paid on production rather than membership of a

70 Pastoralists and Graziers Association of Western Australia, *Submission 54*, p. 2.

71 Farmer Power Australia, *Submission 27*, p. 3.

72 Mr Matthew Koval, Department of Agriculture, *Committee Hansard*, 28 November 2014, p. 5.

73 Mr John Lloyd, Horticulture Innovation Australia Ltd, *Committee Hansard*, 15 May 2015, p. 16.

74 Mr Stuart McCullough, Australian Wool Innovation, *Committee Hansard*, 5 February 2015, p. 20.

75 Dairy Australia, *Submission 124*, p. 15.

particular body.<sup>76</sup> Submitters suggested that provisions should be made for automatic registration of levy payers as members of the relevant industry-owned RDC.<sup>77</sup> Under current arrangements, the onus is placed on producers to apply for membership. South Australian Fresh Fruit Growers Association suggested that if automatic membership was applied, the onus should shift to those who wanted to opt out of membership having to notify the relevant RDC.<sup>78</sup>

3.50 Notwithstanding concerns regarding the distinction between levy payers and RDC members, RDCs are required to 'make an attempt to consult all levy payers', not just members.<sup>79</sup> Such consultation can take the form of general media or can be conducted through intermediaries such as processors and brokers.<sup>80</sup>

### **Representation**

3.51 One of the issues raised throughout the course of the inquiry was the representation of levy payers. These considerations went to questions regarding the role of industry-owned RDCs in relation to levy payers.

3.52 In terms of representation, prescribed industry bodies (PIBs) or peak industry councils represent their respective industry in relation to industry-owned RDCs. PIBs operate as the conduit between RDCs and levy payers across many industries. They seek to provide a collective voice for their levy payer members, who are levy payers, and provide a communication pathway between RDCs and levy payers. They work directly with RDCs to set the strategic direction and priorities for RD&E on behalf of levy payer members and usually manage the process of determining whether the introduction of a levy or change to one is warranted.<sup>81</sup>

3.53 PIBs play a fundamental role in providing opportunities for levy payers to influence levy investment decisions. A key requirement upon PIBs is that they set up arrangements to ensure that levy payers engage in, and can consult on, their respective levy programs.<sup>82</sup> While some industries have more than one PIB, others, such as the wool industry do not have any.<sup>83</sup>

3.54 The role of PIBs was summarised by Mr Gregory Seymour, General Manager of AMGA:

Our role is really important. We are the ones who consult with potential levy payers to establish the levies, and it is our job to consult with them

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76 North Coast Avocado Growers Sub-branch NSW Farmers, *Submission 107*, p. 1.

77 Farmer Power Australia, *Submission 27*, p. 3.

78 South Australian Fresh Fruit Growers Association, *Submission 50*, p. [1].

79 Mr Matthew Koval, Department of Agriculture, *Committee Hansard*, 28 November 2014, p. 5.

80 Mr Matthew Koval, Department of Agriculture, *Committee Hansard*, 28 November 2014, p. 5.

81 Australian Farm Institute, *Submission 129*, p. 25.

82 Mr Dougal Gordon, Australian Lot Feeders' Association, *Committee Hansard*, 3 February 2015, p. 74.

83 Department of Agriculture, *Submission 33*, p. 13.

very, very carefully in making any changes to the levy. We also consult with them very, very heavily in the development of industry strategic plans, and that is where the accountability for performance is noted, because we are measuring against KPIs on an annual basis and on a five-year basis, and then we can look at those things historically over 10 or 20 years. So people have, under the existing system, we believe, significant opportunities for input about the levies and the levy system in the mushroom industry.<sup>84</sup>

3.55 A concern raised during the inquiry regarding PIBs was that of how they are recognised under the legislation. Costa questioned how an industry body comes to be recognised by the government as the default body with authority to propose the imposition of a levy and levy increase.<sup>85</sup>

3.56 The different voting systems utilised by PIBs was raised in evidence. Within the horticultural sector, while the proportional system was used in relation to some commodities such as citrus, other industries have utilised a one grower, one vote system. As a case in point, both the mushroom spawn levy and rubus levy voting systems are determined on the basis of one grower, one vote.<sup>86</sup>

3.57 Some views in relation to the most appropriate voting structure reflected the changing characteristics of the specific industry including, in some industries, a reduction in the number of producers and commensurate concentration of production. Avocado producer, Mr Neil Delroy argued that PIBs should be required to provide for a proportional voting system so that 'growers with a greater amount invested in the business have a greater proportion of the say'. He observed that, in relation to the avocado sector, levy payers who have 10 trees currently have the same proportion of the vote as a levy payer with 100,000 trees.<sup>87</sup>

3.58 HIAL noted that the *Pareto* effect was particularly apparent in horticulture whereby in most horticultural industries, the top five to ten growers will account for more than 50 per cent of production. Mr Lloyd noted that, to have any validity, the 50 per cent of production would have to be represented in HIAL's voting process.<sup>88</sup> However, APAL warned against a voting system based on proportion of production:

It is imperative that the grower membership base and associated voting rights of HIA are reflective of the horticulture sector and is not dominated by large well resourced corporate businesses.<sup>89</sup>

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84 Mr Gregory Seymour, Australian Mushroom Growers Association, *Committee Hansard*, 3 February 2015, p. 35.

85 Costa, *Submission 12*, p. 12.

86 Mr Gregory Seymour, Australian Mushroom Growers Association, *Committee Hansard*, 3 February 2015, p. 40 and Costa, *Submission 12*, p. 17.

87 Mr Neil Delroy, Jasper Farms, *Committee Hansard*, 20 February 2015, p. 28.

88 Mr John Lloyd, Horticulture Innovation Australia Ltd, *Committee Hansard*, 15 May 2015, p. 17.

89 Apple and Pear Australia, *Submission 95*, p. 42.

3.59 Other submitters supported a two-tiered voting system whereby votes are determined on the basis of volume of production and on a one grower, one vote basis.<sup>90</sup> APAL highlighted that such a system provided an opportunity for larger producers to have their say while also diffusing their influence to provide smaller producers with a voice.<sup>91</sup> Farmer Power noted that the way in which the two-tiered model operated effectively provided a checks and balances mechanism.<sup>92</sup>

3.60 The matter of representation in this regard brought to the fore the reality that the levy system has not adjusted to changing agricultural market conditions, including the decline in the number of small producers across many industries.

3.61 These concerns go to matters of levy payer engagement and opportunities for levy payers to influence levy investment.

### **Opportunities for levy payers to influence levy investment**

3.62 There is a considerable range of levy-payer consultation processes across agricultural industries, with no single levy payer consultation model universally applied.<sup>93</sup> For these reasons, the points of engagement for levy payers, and opportunities to influence levy investment, vary considerably.

3.63 The department noted in its submission that:

It is rural industries that decide if they want a levy, how much it will be, how it will be collected, and what it will be used for. What role the levy payers play in decision making within an RDC varies between the RDCs. For industry-owned RDCs, levy payers can become members of the RDC and can exercise their rights as members within it. Levy payers cannot be members of the statutory RDCs, but each statutory RDC has its own consultative mechanism that gives levy payers an opportunity to contribute to the RDC's activities.<sup>94</sup>

3.64 Notwithstanding the various methods of engagement, the point was repeatedly made that identifying the levy payers is fundamental to strengthening RDC accountability. Such information provides a mechanism through which levy payers can influence the investment of their levies through formal voting rights or other processes whereby levy payers contribute to R&D prioritisation.<sup>95</sup>

3.65 There are a number of formal and informal levy payer engagement mechanisms within each industry. The effectiveness of these mechanisms and related participation rates, as well as levy payer perception regarding the extent of their

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90 South Australian Fresh Fruit Growers Association, *Submission 50*, p. [2].

91 Apple and Pear Australia Ltd, *Submission 95*, p. 25 and North Coast Avocado Growers Sub-branch NSW Farmers, *Submission 107*, p. 3.

92 Farmer Power Australia, *Submission 27*, pp 3–4.

93 Australian Farm Institute, *Submission 129*, p. 25.

94 Department of Agriculture, *Submission 33*, p. vi.

95 NSW Farmers' Association, *Submission 140*, p. 24.

influence over them, vary considerably across industries. For example, ALFA noted that it was more easily able to influence the adjustment of the R&D and marketing levy allocation on behalf of lot feeders compared to the grass-fed cattle sector. This is because of its direct membership model, smaller industry size and the fact that its members comprise 82 per cent of the cattle feedlot sector.<sup>96</sup>

3.66 There were a few submitters who argued that levy payers had little opportunity to engage in the decision-making process. In some instances, levy payers argued that they were provided inadequate information to provide input into strategic plans.<sup>97</sup> In others, they sought greater detailed and more accessible information on completed projects.<sup>98</sup> However, one of the key concerns raised by producers was that of a dilution of regional or commodity-specific influence over levy decision making.<sup>99</sup>

3.67 Some growers in the horticulture sector were concerned about the potential dissolution of their influence in relation to other commodity-specific groups. They were concerned about the prospect of the merger of their levy funds with other horticultural levy funds into 'one horticulture bucket'.<sup>100</sup> As a case in point, Australian Sweetpotato growers pay the vegetable R&D levy. As the peak body representing sweetpotato growers in Australia, Australian Sweetpotato Growers Inc. (ASPG) raised the concern that its members had not derived fair or equitable benefit from their levy investment. The organisation argued that it had limited opportunity to influence the investment of their contribution to the levy. Highlighting the unique characteristics of sweetpotatoes, including the different growing conditions and practices required, (which are distinctly different to that for potatoes), ASPG argued that the R&D interests of its grower members had been diluted under the vegetable levy, as reflected in an inequitable benefit derived from R&D investment.<sup>101</sup>

3.68 However, Mr John Lloyd, CEO of HIAL informed the committee that under the new model:

...we have made a commitment that a levy dollar raised, let us say, by the cherry industry, and paid by a cherry grower will stay in the cherry industry for the benefit of the cherry industry, and we will match that—at this stage, while our funding formula remains the same—with a Commonwealth dollar.<sup>102</sup>

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96 Australian Lot Feeders' Association, *Submission 29*, p. 6.

97 Western Australian Farmers Federation, *Submission 117*, p. 2.

98 Commercial Egg Producers' Association of Western Australia, *Submission 120*, p. 2.

99 Mr Douglas Clarke, WA Grains Group, *Committee Hansard*, 20 February 2015, p. 3 and Mr Paul McKenzie, private capacity, *Committee Hansard*, 20 February 2015, p. 22.

100 Mr Frank Diaco, *Submission 73*; Mr Ross Stuhmcke, *Submission 75*; Mr Tim Byl, *Submission 76*; Mr Adrian Conti, *Submission 77*; A.C.N Orchards, *Submission 78* and Mr TJ & RM Dunn, *Submission 79*.

101 Australian Sweetpotato Growers Inc., *Submission 94*, pp 9–10.

102 Mr John Lloyd, Horticulture Innovation Australia Ltd, *Committee Hansard*, 15 May 2015, p. 19.

3.69 Thereafter, HIAL will publish a set of accounts by that fund. Therefore, in this instance, there would be a cherry fund with its own set of accounts. It would detail how much levy was raised by the cherry industry, how much was matched, and how much was spent and on what.<sup>103</sup>

3.70 Many submitters identified a range of initiatives by which levy payers can influence the investment of their levies. While these vary from one industry to the next, evidence to the committee focused on opportunities for levy payers to engage in three key areas.

- RDC performance including strategic planning and governance;
- levy rate management including the approval and modification of levy rates; and
- levy investment decisions and review of returns on levy investment.<sup>104</sup>

*RDC performance including strategic planning and governance*

3.71 Industry-owned RDC AGMs provide eligible levy payers with an opportunity to question board members and senior executives, elect or endorse board members and to vote on a range of resolutions. AECL argued that feedback from levy payers is given at AGMs as well as at industry forums, during ad hoc workshops with egg producers and strategic planning meetings.<sup>105</sup>

3.72 The Goat Industry Council (GICA) noted the following efforts to engage in RDC strategic direction:

GICA has been proactive in engaging with the above organisations that manage levy funds. Although there does not appear to be any statutory requirement for producer involvement in setting priorities and strategic direction, GICA, through collaborative involvement, gives direction to these organisations in relation to the use of levy funds.<sup>106</sup>

3.73 APAL highlighted the importance of grower engagement in the strategic plan, noting that the first element of any rationing system is the establishment of an Industry Strategic Investment Plan which serves as the 'cornerstone of any levy investment decision'.<sup>107</sup>

*Levy rate management including the approval and modification of levy rates*

3.74 The previous chapter outlined the various processes by which levy payers can engage in the approval and modification of levy rates. Examples include levy payer

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103 Mr John Lloyd, Horticulture Innovation Australia Ltd, *Committee Hansard*, 15 May 2015, p. 22.

104 Victorian Farmers Federation, *Submission 85*, p. [4] and Apple and Pear Australia Ltd, *Submission 95*, pp 22–23.

105 Mr James Kellaway, Australian Egg Corporation Ltd, *Committee Hansard*, 3 February 2015, p. 22.

106 *Goat Industry Council*, *Submission 30*, p. 7.

107 Apple and Pear Australia Ltd, *Submission 95*, pp 19–20.

members of ALFA who have an opportunity to approve and re-approve their levy via a motion on programs, projects and budgets for the upcoming year. ALFA noted that the AGM provides the opportunity for its members to voice their concerns about particular matters and vote on them.<sup>108</sup> Mr Douglas Gordon, CEO of ALFA noted that there were other consultative mechanisms in place where members could raise their concerns and have them considered rather than wait to raise them at an AGM.<sup>109</sup>

3.75 APL informed the committee that it is able to gauge the views of its industry through a delegate system. Delegates, who represent 98 per cent of production, meet twice yearly to discuss industry matters. APL put the view that as the delegate system is robust, there was little need for a poll which, it argued, served as an additional set of regulation over the top of existing arrangements.<sup>110</sup> NSW Farmers noted that at the APL AGMs, levy payers had the ability to raise concerns about levy expenditure rather than wait until a poll was organised.<sup>111</sup>

3.76 While the matter of levy rates is one for industry rather than RDCs, the grains industry utilises GRDC's stakeholders' report to consider the appropriate rate of the respective grains levy.

3.77 However, other industry bodies highlighted the lack of engagement. GICA, the designated Commodity Council of the Federation by the Australian Government noted the following in this regard:

The rate of the levies are prescribed by Regulation. Levy payer involvement in setting the rates is not clear.<sup>112</sup>

*Levy investment decisions and review of returns on levy investment*

3.78 Industries utilise a variety of mechanisms to engage levy payers in investment decisions. As each industry has its own set of characteristics, not all mechanisms are suitable for all industries. Notwithstanding this point, most industries had in place committees, panels or delegates systems whereby growers could engage in consideration of levy investments. One such example was the key stakeholder roundtable described by APAL:

The apple and pear industry Key Stakeholders Roundtable was formed in early 2013 as a direct result of feedback received from APAL's annual grower roadshows. The Roundtable comprises around 22 of the industry's largest growers and largest packhouse operators from across Australia's eight major growing regions. This group has "most skin in the game" and together account for over 60% of the apple and pear crop and nearly 80% of

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108 Mr Dougal Gordon, Australian Lot Feeders' Association, *Committee Hansard*, 3 February 2015, p. 77.

109 Mr Douglas Gordon, Australian Lot Feeders' Association, *Committee Hansard*, 3 February 2015, p. 78.

110 Mr Aeger Kingma, Australian Pork Limited, *Committee Hansard*, 28 November 2014, p. 35.

111 Mr Matt Brand, NSW Farmers' Association, *Committee Hansard*, 3 February 2015, p. 70.

112 Goat Industry Council of Australia, *Submission 30*, p. 10.

industry throughput. It provides a forum for industry leaders to share ideas about ways to move the industry forward including priorities for research and extension as well as marketing. The views of the key stakeholders are fed directly to the APAL Board and up until recently, HAL's apple and pear R&D and Marketing Sub-committees, and Industry Advisory Committee (IAC).<sup>113</sup>

3.79 GRDC utilise three regional panels – north, south and west – which are made up of growers and researchers. The panels are responsible to consult with growers, understand their concerns and feed back to growers the work that GRDC is engaged in researching. GRDC also engages regional cropping solution groups comprising growers and advisers responsible to determine research issue and challenges that require R&D for their respective locations.<sup>114</sup>

3.80 In the nursery and garden industry sector, NGIA informed the committee that investment decisions regarding the nursery levy are undertaken in accordance with the industry strategic investment plan, developed in consultation with the 'top levy payers within the sector' and circulated to all levy payers for consideration and discussion at the industry national conference.<sup>115</sup> In terms of monitoring programs, industry levy payers sit on the industry advisory committees responsible for monitoring program delivery. Other committees provide advice on project direction and research gaps.

3.81 Grain Growers Ltd made the point that there are three primary ways in which growers can influence the investment of the grain levies including through:

- ongoing industry consultation – through regional panels, networks, consultation meetings, surveys, research advisory committee meetings and adviser/grower updates in all regions;
- RO – whereby the grains RDC operates under a statutory arrangement which legislates that grain producers have an industry RO to address issues raised by grain producers;<sup>116</sup> and
- RO board representation – in which a proportion of its board appointments are filled by growers.<sup>117</sup>

3.82 One of the primary forums where levy payers can liaise directly with RDCs and engage in levy decision making is at AGMs. OIC's are required to hold AGMs but statutory RDCs are not. While the PIRD Act does not require statutory RDC boards to conduct AGMs, it is permitted. According to the Marsden Jacob report, GRDC's

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113 Apple and Pear Australia Ltd, *Submission 95*, p. 22.

114 Mr John Harvey, Grains Research and Development Corporation, *Committee Hansard*, 28 November 2014, p. 41.

115 Nursery and Garden Industry Australia, *Submission 92*, p. 5.

116 An RO has not been appointed to oversight GRDC. According to Grain Growers Ltd, applications for the position of the RO are currently with the Minister's office. Grain Growers Ltd, *Submission 36*, pp 11–12.

117 Grain Growers Ltd, *Submission 36*, pp 11–12.

approach of not conducting AGMs appears to reflect 'perceived costs, benefits and the absence of a requirement'.<sup>118</sup>

3.83 While statutory RDCs don't hold AGMs, many industry representative bodies do. Cotton Australia, as the peak representative body for cotton growers, conducts three general meetings a year where growers' and members' representatives from every region converge to consider key issues. The cotton RDC, CRDC uses the peak body AGM as an opportunity to report directly to those grower representatives, while growers can directly raise their concerns with the cotton RDC.<sup>119</sup>

### *Navigating complexity*

3.84 One of the primary reasons for the complexity across the agricultural levies system is the sheer diversity in governance, management and membership structures across the plethora of organisations and bodies engaged with levies, R&D and marketing. This diversity extends to how levy payers are represented and the extent to which they engage with RDCs. Some have a direct relationship through voting mechanisms, while for others the relationship is filtered through industry representative bodies. This diversity stems from the different histories, characteristics and makeup of each industry which also carry with them lingering legacy issues. The diversity extends to the RDC and representative body membership structures which also vary considerably. These differences and the diversity from one industry to the next provide considerable scope for confusion and uncertainty.

3.85 Along with the officially recognised PIBs and ROs, there are a number of other grower representative bodies including industry-specific bodies and broader based groups such as farmer organisations. Estimates suggested that there are up to 90 farmer organisations, including state farming organisations (SFOs), national farm organisations and agriculture commodity organisations that carry out industry representation and advocacy activities, largely funded by voluntary membership contributions.<sup>120</sup> For any levy payer, establishing an understanding of the roles, responsibilities and relationships between these bodies, and in respect to RDCs (and to themselves as payers of the levy) is an extremely difficult task.

3.86 The horticulture industry is characterised by a number of separate peak bodies for its component commodities. Membership of the former Horticulture Australia Ltd consisted of 43 separate industry bodies, covering a range of horticulture products.<sup>121</sup> These bodies had the power to propose the imposition of, and changes to, levies. The point was made that in contrast, it is only the statutory organisation that has the power to propose levies.<sup>122</sup> With such a large number of industry representative bodies

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118 Marsden Jacob Associates, *Grain Research and Development Corporation: Independent Strategic Governance Review: Final Report*, July 2014, p. 26.

119 Mr Adam Kay, Cotton Australia, *Committee Hansard*, 3 February 2015, p. 47.

120 Australian Farm Institute, *Submission 129*, p. 18.

121 Mr John Lloyd, Horticulture Innovation Australia Ltd, *Committee Hansard*, 15 May 2015, p. 17.

122 Costa, *Submission 12*, p. 6.

within the horticultural sector, the tasks of management and coordination were described as cumbersome and difficult. In light of the extent of variation and representation across horticulture, it was argued that under the new HIAL structure, methods to consolidate industry-wide projects should be clear and transparent to all.<sup>123</sup>

3.87 A different example is that of the wool industry. AWI is a not-for-profit company owned by over 56,000 wool levy payers, including over 26,000 who have registered as AWI shareholders. AWI's SFA does not define a specific industry representative body to consult with and ensure that growers' priorities are reflected in their business. There is no formalised feedback mechanism therefore, between a wool grower PIB that sets policy and AWI.<sup>124</sup>

3.88 As there is no defined industry representative body in relation to the wool industry, AWI is required to consult with the four national representative woolgrower groups (as well as state farm organisations) to meet its SFA obligations. To streamline this process and bring together these respective representative groups, AWI established the Woolgrower Industry Consultative Committee (ICC) which meets quarterly.<sup>125</sup> The role of the ICC is to provide grower stakeholders with input into AWI business planning and priority-setting processes including strategic and annual operating plans.<sup>126</sup>

3.89 To add to the complexity of the levy system, more than one term is used to describe industry representative bodies. The ACIL Allen report on HAL noted in this regard that prescribed industry bodies (PIBs) were also referred to as peak industry bodies and as industry representative bodies. That is, three different names to describe the same organisation.<sup>127</sup>

#### *Representation and service provision*

3.90 Representative bodies including ROs and PIBs are structured to provide opportunities for their members to influence policy decisions. In contrast, RDCs are mandated to invest in R&D and marketing to enhance the profitability, international competitiveness and sustainability of agricultural industries.<sup>128</sup>

3.91 Much of the debate regarding representation stemmed from the fact that the roles and responsibilities of RDCs and industry representative bodies have become confused. RDCs have a mandate to enhance production, while the validity of representative bodies rests on their ability to secure support from producers. In this regard, PIBs have a role in holding RDCs, as levy investment organisations, to

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123 Dorrian Farms, *Submission 112*, p. 6.

124 WoolProducers Australia, *Submission 132*, p. 9.

125 Ms Peta Slack-Smith, Australian Wool Innovation, *Committee Hansard*, 5 February 2015, p. 24 and Australian Wool Innovation, *Submission 123*, p. 4.

126 Australian Wool Innovation, *Submission 123*, p. 18.

127 ACIL Allen Consulting, *Better Value for Growers – A future for HAL*. Independent review of HAL and Horticulture Levy System, May 2014, iv.

128 Australian Wool Innovation, *Submission 123*, p. 6.

account for the effective investment of levy funds on behalf of levy payers.<sup>129</sup> These organisations are the representative and advocacy organisations for their specific commodity sector. They play an important role in providing a collective voice for members (who are also RDC levy payers), providing a communications pathway between RDCs and their levy payers, and working directly with the RDC to set the strategic direction and priorities for RD&E on behalf of levy payers.<sup>130</sup>

3.92 The different mandates of RDCs and representative bodies are evident in their membership structures and respective board selection processes. AFI noted that the contention surrounding RDC boards and whether they should be skills-based recruitments or appointed by way of popular ballot, stemmed from confusion about the respective roles of representative organisations and RDCs. It made the point that while levy payers have the opportunity to endorse nominations for RDC board positions via a selection committee process, or to elect directors from nominations, they do not have the opportunity to directly elect RDC boards via popular ballot. AFI continued:

This arrangement is the same as those that apply more generally in Australian shareholder corporations, which operate on the basis that good corporate governance requirements dictate that a board requires a balance[d] mix of relevant skills and experience, and that a purely popular ballot is not an appropriate way to achieve such an outcome around the board table.<sup>131</sup>

3.93 However, in the case of commodity organisations or advocacy organisations such as state farming organisations, it is 'entirely appropriate to elect leaders and representatives by popular ballot', as the objective in this case is to elect representatives who 'best reflect the collective views of members'.<sup>132</sup>

3.94 In terms of industry-owned RDC membership, the former HAL comprised industry representative bodies while membership of DA comprises both dairy farmers and SFOs.<sup>133</sup> DA has two groups of members. Group A members comprise eligible levy payer dairy farmers and group B members comprise Australian Dairy Farmers (the six SFOs) and the Australian Dairy Products Federation.<sup>134</sup>

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129 Mr Gregory Seymour, Australian Mushroom Growers Association, *Committee Hansard*, 3 February 2015, p. 35.

130 Australian Farm Institute, *Submission 129*, p. 25.

131 Australian Farm Institute, *Submission 129*, p. 25.

132 Australian Farm Institute, *Submission 129*, pp 25–26.

133 ACIL Allen Consulting, *Better Value for Growers – A future for HAL*. Independent review of HAL and Horticulture Levy System, May 2014, vii.

134 Dairy Australia, *Submission 124*, p. 31.

3.95 Membership arrangements of industry representative bodies also vary considerably. Membership of some PIBs such as the Sheepmeat Council of Australia comprises SFOs, whereas in others, producers can become direct members.<sup>135</sup>

3.96 It should be further noted that not all levy payers are members of industry representative bodies. The Goat Industry Council of Australia (GICA) acknowledged:

Members of the organisations represented on GICA have the opportunity to input directly into the debate on levy investment via their representatives. However, GICA recognises that not all levy payers are members of these organisations and need the opportunity to influence levy investment and the opportunity to hear how the levies are being invested.<sup>136</sup>

3.97 There are substantial differences between representative organisations which are structured to provide opportunities to members to influence policy decisions and that of RDCs. In light of the complex relationships and diverse representative and membership structures, evidence to the committee suggested that these differences were not well understood by levy payers. CRDC also acknowledged that there was confusion in distinguishing between roles, responsibilities and representation.<sup>137</sup> AFI noted in this regard that:

A lack of understanding of the fundamental differences between the two types of organisations often leads to misunderstandings by farmers and policy makers about the role they believe RDCs should play, and how they should be structured and governed.<sup>138</sup>

3.98 AFI's Executive Director, Mr Michael Keogh, noted that there was a lot of confusion about representation structures and the linkages they have to RDCs, as well as in relation to the role of RDCs themselves. Furthermore, he acknowledged that misunderstandings about representative structures got confused in discussions about the management and operations of RDCs.<sup>139</sup>

3.99 Depending on the complexity of the industry, number of representative bodies involved, and mechanisms through which levy payers can have a say about their levies, understanding these differences and interrelationships can be extremely difficult for levy payers. Acting upon this understanding, in order to identify the most effective ways to engage in levy decision-making processes and influence levy

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135 Sheepmeat Council of Australia, SCA Background, <http://www.agforceqld.org.au/file.php?id=2878&open=yes> (accessed 12 May 2015). In late 2013, Cattle Council of Australia (CCA) adopted a new structure which provided for direct membership to beef producers. Previously, beef producers could only become members of CCA if they were members of an existing SFO. Cattle Council of Australia membership, <http://www.cattlecouncil.com.au/members/about> (accessed 12 May 2015).

136 Goat Industry Council of Australia, *Submission 30*, p. 9.

137 Mr Bruce Finney, Cotton Research and Development Corporation, *Committee Hansard*, 3 February 2015, p. 49.

138 Australian Farm Institute, *Submission 129*, p. 19.

139 Mr Michael Keogh, Australian Farm Institute, *Committee Hansard*, 5 February 2015, p. 26.

investment becomes even more difficult. The prospect of tracing their levies throughout the process from initial payment to investment and return is, therefore, very remote indeed.

3.100 Under these circumstances, particularly where producers do not have a direct relationship with the industry RDC, that disconnect extends to the relationship between levy payer and levy recipient.

3.101 Farmer Power noted that:

Farmer Power has found a high level of discontent and disconnection amongst dairy farmers with their levy funded representative body. Levy payers have questioned the use of their rate payments, feeling there is a lack of real return of investment to farm gate operations. We also question the depth of analysis in previous performance reviews, and feel that more scope should be given in reviews to more thoroughly investigate the use of levy rate payments.<sup>140</sup>

### ***Participation***

3.102 While some submitters highlighted the inadequate opportunities to engage in the strategic direction of RDCs or levy rate changes, considerable evidence to the committee pointed to the modest levels of levy payer engagement in levy decision making processes such as AGMs and polls. As a case in point, 42 per cent of levy payers (representing 51 per cent of DA members) participated in the 2012 dairy poll.<sup>141</sup>

3.103 SRA informed the committee that at its most recent AGM in October 2014, 100 canegrowers (of its 2300 canegrower members) participated in person or by proxy alongside seven (of the eight) miller members.<sup>142</sup> It argued the case that the turnout was interpreted as a vote of confidence in the company.<sup>143</sup>

3.104 As farmers are 'time poor', one of the primary challenges before DA and other RDCs is maintaining dialogue with them about R&D while also meeting their consultation obligations.<sup>144</sup> However, the matter goes again to the question of representation and the ability of levy payers to negotiate their way through the system. As GRDC noted in its evidence to the committee, while it conducts a telephone survey of 1200 grain growers every year, only 18 per cent of them understand what GRDC is doing.<sup>145</sup>

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140 Farmer Power, *Submission 27*, pp 1–2.

141 Mr Ian Halliday, Dairy Australia, *Committee Hansard*, 4 February 2015, p. 31.

142 Mr Neil Fisher, Sugar Research Australia, *Committee Hansard*, 28 November 2014, p. 25.

143 Mr Neil Fisher, Sugar Research Australia, *Committee Hansard*, 28 November 2014, p. 26.

144 Mr Ian Halliday, Dairy Australia Ltd, *Committee Hansard*, 4 February 2015, p. 30.

145 Mr John Harvey, Grains Research and Development Corporation, *Committee Hansard*, 15 May 2015, p. 2.

3.105 This is also the challenge for industry representative bodies including Summerfruit Australia, a peak industry body.<sup>146</sup> It initiated a process to increase the levy on apricots, nectarines, peaches and plums in June 2010, with roadshows in 14 locations. In some places, only five people attended the roadshows. While 304 registrations were received to participate in the vote, ABS estimates suggest that there are between 800 to 1000 stone fruit growers in Australia.<sup>147</sup> An AEC-managed poll was conducted in October 2011, following advertisements in over 18 regional and national newspapers. However, 91 people did not send in their returns while seven were incorrect. Therefore, of 304 registered votes, only 213 were counted.<sup>148</sup>

3.106 Participation was also a matter raised in relation to a poll conducted through an independent agent, Secure Vote, by Avocados Australia Ltd, the prescribed industry body for avocado growers, to increase R&D and marketing levies in 2005. While 661 levy payers were eligible to vote, 145 participated in the poll.<sup>149</sup>

3.107 These modest levels of engagement were equally reflected at educational events such as field days. Mr Halliday from DA explained that the challenge before RDCs and their industry representative bodies was how to help levy payers to make an informed decision when a lot of the information provided to them does not get read.<sup>150</sup> In this regard, the point was made by GRDC that knowing who the levy payers are would permit the RDC to tailor information to grain growers.<sup>151</sup>

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146 Summerfruit Australia is the peak industry body for growers of fresh apricots, nectarines, peaches and plums. Summerfruit Australia, *Submission 51*, p. 1.

147 Mr John Moore, Summerfruit Australia, *Committee Hansard*, 4 February 2015, p. 57.

148 Mr John Moore, Summerfruit Australia, *Committee Hansard*, 4 February 2015, pp 56 and 60.

149 Avocados Australia Ltd, *Submission 121*, p. 3.

150 Mr Ian Halliday, Dairy Australia, *Committee Hansard*, 4 February 2015, p. 31.

151 Mr John Harvey, Mr John Harvey, Grains Research and Development Corporation, *Committee Hansard*, 15 May 2015, p. 9.